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IBM CORP (AP)		DUONG, OANH L	
C/O AMY PATTILLO			
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/042,491
Filing Date: January 09, 2002
Appellant(s): BROWN ET AL.

Amy J. Pattillo
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 16, 2007 appealing from the
Office action mailed February 21, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0133565 A1	HUAT	9-2002
2003/0052923 A1	PORTER	3-2003
2002/0194190	SHEMA et al.	12-2002

6,983,331 B1   MITCHELL et al.   1-2006

6,182,050 B1   BALLARD   1-2001

Appellants Admitted Prior Art

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-4, 7, 8, 12, 13, 15, 16, 19, 20, 22, 24, 26, and 27 are rejected under 35

U.S.C. 103(a) as being unpatentable over **Huat**, US 2002/0133565 A1.

Regarding claim 1, **Huat** teaches a method for rendering a document *(i.e., web

document/page)* on a display utilizing a view program *(i.e., web browser 114)* running

on a computer system *(i.e., client computer 102)* [Fig. 1], comprising:

receiving primary content of the document to be displayed *(page 3 paragraph*

[0034]: Huat discloses a web page is downloaded to client device);

identifying secondary content *(i.e., intermediate message)* to be displayed in conjunction with the primary content *(i.e., identifying and displaying intermediate message in clear space of a displayed web page, page 4 paragraph [0039])*;

determining whether there is available white space within the primary content, when displayed within a display area, to accommodate the secondary content *(page 4 paragraph [0042]: Huat teaches it is determined whether an adequate clear space exists for displaying an intermediate message (i.e., secondary content)*;

embedding the secondary content in the available white space if it is determined that there is available white space to accommodate the secondary content *(i.e., if a clear space area exists, an intermediate message is displayed in this area, page 4 paragraph [0042])*; and

embedding the secondary content in the suitable white space formed *(i.e., displaying intermediate messages in the clear space of a scrolled/reflowed web page, page 5 paragraph [0045])*.

Huat does not explicitly teach responsive to determining the white space is not available, reflowing the primary content to form suitable white space in the displayed area.

However, **Huat** does teach it is determined that clear space is not available within the active window *(i.e., in responsive to determining the white space is not available)*, it waits for <u>a change in the active window that may create the availability of clear/white space within the window, wherein such a change could be the scrolling of a</u>

web page within the display area to create the available clear/white space to display the additional content *(i.e., the intermediate message)* **(Huat, paragraph [0043])**.

Examiner respectfully submits that one of ordinary skill in the art at the time of the present invention would have readily found that **Huat**'s disclosed mechanism for "scrolling of a web page within the display area to create the availability clear/white space" is substantially equivalent to "reflowing the primary content to form suitable white space in the displayed area" of the instant application.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the feature of "scrolling of a web page within the display area to create the available clear/white space" as "reflow the primary content to form suitable white space in the displayed area" as claimed. One would be motivated to do so to create additional clear/white space for embedding/displaying new/additional content within the display area.

Regarding claim 2, **Huat** teaches the method of claim 1 further comprising:

receiving a user action to change a portion of the primary content currently display in the displayed area *(i.e., scrolling of a web page within the display area, page 4 paragraph [0043])*;

determining whether there is available white space within the portion of primary content currently displayed in the displayed area to accommodate the secondary content *(page 4 paragraph [0042]: Huat teaches it is determined whether an adequate clear space exists for displaying a intermediate message (i.e., secondary content); and*

embedding the secondary content in the available white space if it is determined

that there is available white space to accommodate the secondary content *(i.e., if a*

clear space area exists, an intermediate message is displayed in this area, page 4

paragraph [0042]); and

embedding the secondary content in the suitable white space formed *(i.e.,*

displaying/embedding intermediate messages in the clear space of a scrolled web page,

page 5 paragraph [0045]).

Huat does not explicitly teach responsive to determining the white space is not

available, reflowing the primary content to form suitable white space in the displayed

area.

However, **Huat** does teach it is determined that clear space is not available

within the active window *(i.e., in responsive to determining the white space is not*

available), it waits for <u>a change in the active window that may create the availability of</u>

<u>clear/white space within the window, wherein such a change could be the scrolling of a</u>

<u>web page</u> within the display area to create the available clear/white space to display the

additional content *(i.e., the intermediate message)* **(Huat, paragraph [0043])**.

Examiner respectfully submits that one of ordinary skill in the art at the time of

the present invention would have readily found that **Huat's** disclosed mechanism for

"scrolling of a web page within the display area to create the availability clear/white

space" is substantially equivalent to "reflowing the primary content to form suitable white

space in the displayed area" of the instant application.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the feature of "scrolling of a web page within the display area to create the available clear/white space" as "reflow the primary content to form suitable white space in the displayed area" as claimed. One would be motivated to do so to create additional clear/white space for embedding/displaying new/additional content within the display area.

Regarding claim 3, **Huat** teaches the user actions comprises at least one of a resizing of the displayed area and a scrolling of the primary content *(i.e., scrolling of a web page within the display area, page 4 paragraph [0043])*;

Regarding claim 4, **Huat** teaches the method of claim 1 wherein the white space is a background to the primary content *(i.e., such clear space could comprise plain white background or constant color background, page 4 paragraph [0041])*.

Regarding claim 7, **Huat** teaches the method of claim 1 wherein identifying secondary content comprises generating a viewer object containing the secondary content *(i.e., the intermediate message (i.e., secondary content) display can be displayed in an HTML frame that can display graphics or other type of data, page 5 paragraph [0052])*.

Regarding claim 8, **Huat** teaches the method of claim 1 further comprising automatically resizing the secondary content to fill the determined white space *(i.e., "the shape of the message boundary area may be altered to fit different shape clear spaces that may be available", page 5 paragraph [0048]).*

Regarding claims 12 and 13, these claims recite a computer program, on a computer usable medium, having program code means for performing method claims 1 and 2, discussed above, same rationale of rejection is applicable.

Regarding claims 15 and 16, these claims recite a computer program, on a computer usable medium, having program code means for performing method claims 7 and 8, discussed above, same rationale of rejection is applicable.

Regarding claim 19, this claim recites a computer system for performing a corresponding method claim 1, discussed above, same rationale of rejection is applicable.

Regarding claim 20, this claim recites a computer system for performing a corresponding method claim 2, discussed above, same rationale of rejection is applicable.

Regarding claim 22, this claim recites a computer system for performing a corresponding method claim 7, discussed above, same rationale of rejection is applicable.

Regarding claim 24, this claim recites a computer system for performing a corresponding method claim 8, discussed above, same rationale of rejection is applicable.

Regarding claim 26, **Huat** teaches a method for rendering a document *(i.e., web document/page)* on a display utilizing a view program *(i.e., web browser 114)* running on a computer system *(i.e., client computer 102)* [Fig. 1], comprising:

receiving primary content of the document to be displayed *(page 3 paragraph [0034]: Huat discloses a web page is downloaded to client device)*;

identifying secondary content (i.e., intermediate message) to be displayed in conjunction with the primary content *(i.e., identifying and displaying intermediate message in clear space of a displayed web page, page 4 paragraph [0039])*;

determining whether this is available white space within the primary content, when display within a displayed area, to accommodate the secondary content *(page 4 paragraph [0042]: Huat teaches it is determined whether an adequate clear space exists for displaying an intermediate message (i.e., secondary content)*;

embedding the secondary content in the available white space if it is determined

that there is available white space to accommodate the secondary content *(i.e., if a clear space area exists, an intermediate message is displayed in this area, page 4 paragraph [0042])*; and

responsive to determining the white space is not *available (i.e., if it is determined that clear space is not available, page 4 paragraph [0043])*, it waits for a change in the active window or web page that may create the availability for clear space within the window (page 4 paragraph [0043]);

embedding the secondary content in the suitable white space formed *(i.e., displaying/embedding intermediate messages in the clear space of a scrolled web page, page 5 paragraph [004])*; and

sending the document with the embedded secondary content to the client for display (page 5 paragraph [0051]).

Huat does not explicitly teach responsive to determining the white space is not available, reflowing the primary content to form suitable white space in the displayed area.

However, **Huat** does teach it is determined that clear space is not available within the active window *(i.e., in responsive to determining the white space is not available)*, it waits for <u>a change in the active window that may create the availability of clear/white space within the window, wherein such a change could be the scrolling of a web page</u> within the display area to create the available clear/white space to display the additional content *(i.e., the intermediate message)* **(Huat, paragraph [0043])**.

Examiner respectfully submits that one of ordinary skill in the art at the time of the present invention would have readily found that **Huat**'s disclosed mechanism for "scrolling of a web page within the display area to create the availability clear/white space" is substantially equivalent to "reflowing the primary content to form suitable white space in the displayed area" of the instant application.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the feature of "scrolling of a web page within the display area to create the available clear/white space" as "reflowing the primary content to form suitable white space in the displayed area" as claimed. One would be motivated to do so to create additional clear/white space for embedding/displaying new/additional content within the display area.

Regarding claim 27, this claim recites a computer system that performs a corresponding method claim 26, discussed above, same rationale of rejection is applicable.

4.   Claims 5, 15, and 21 are rejected under 35 U.S.C. 103(a) as being obvious over **Huat**, US 2002/0133565, in view of **Porter**, US 2003/0052923.

Regarding claim 5, **Huat** teaches the method of claim 1.

Huat does not explicitly teach identifying secondary content comprises receiving a designation associated with receiving secondary content indicating that the secondary

content is to be persistently displayed within white space within displayed area unless of

a user action of at least one of adjusting the portion of the primary content currently

displayed within the display area and adjusting a size o said displayed area.

Porter teaches a system wherein a persistently visible display of content

including advertisements is provided (seen in abstract). Porter teaches identifying

secondary content comprises receiving a designation associated with receiving

secondary content indicating that the secondary content is to be persistently displayed

within white space within displayed area unless of a user action of at least one of

adjusting the portion of the primary content currently displayed within the display area

and adjusting a size of said displayed area (i.e., by virtue of the browser's exclusive use

of its assigned display area 506b or 506c, the advertisement rendered are persistently

visible, independent of changes in the shared displayed area 504, Fig. 5 page 4

paragraph [0037]).

It would have been obvious to one of ordinary skill in the art at the time of the

invention was made to modify the teachings of Huat to identify secondary content

comprises receive a designation associated with receiving secondary content indicating

that the secondary content is to be persistently displayed within white space within

displayed area unless of a user action of at least one of adjusting the portion of the

primary content currently displayed within the display area and adjusting a size of said

displayed area as taught by Porter. One would be motivated to do so to overcome the

prior art disadvantage of losing visibility to some of the rendered contents such as

banner advertisement (Porter, page 2 paragraph [0019]).

Regarding claim 15, this claim recites the computer program that performs the method claim 5, same rationale of rejection is applicable.

Regarding claim 21, this claim recites a computer system for performing a corresponding method claim 5, discussed above, same rationale of rejection is applicable.

5.   Claims 6 and 23 are rejected under 35 U.S.C. 103(a) as being obvious over **Huat**, US 2002/0133565, in view of **Porter**, US 2003/0052923 A1, and **Shema** et al. (hereafter, Shema), US 2002/0194190 A1.

Regarding claim 6, **Huat** teaches the method of claim 5.

The combination of teachings of **Huat and Porter** does not explicitly teach retrieving the designation from a database accessible to the viewer program.

Shema teaches retrieving the designation from a database accessible to the viewer program (page 7 paragraph [0051]).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teaching of **Huat and Porter** to retrieve the designation from a database accessible to the viewer program as taught by **Shema**. One would be motivated to do so to efficiently retrieve the database information regarding a designation associated with the secondary content.

Regarding claim 23, this claim recites a computer system for performing a corresponding method claim 6, discussed above, same rationale of rejection is applicable.

6.   Claims 9, 18, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Huat** in view of **Mitchell** et al. (hereafter, Mitchell), US 6,983,331 B1.

Regarding claim 9, **Huat** teaches the method of claim 1 wherein the step of determining whether there is available white space (page 4 paragraph [0042]).

Huat does not explicitly teach determining the areas of the data elements in the document used through a Document Object Model Interface.

Mitchell teaches determining the areas of the data elements in the document used through a Document Object Model Interface (col. 12 lines 12-22).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Huat to determine the areas of the data elements in the document used through a Document Object Model Interface as taught by **Mitchell**. One would be motivated to do so to maximize the use of the available display area (**Mitchell**, col. 4 line 21-22).

Regarding claim 18, this claim recites a computer program for performing method claim 9, same rationale of rejection is applicable.

Regarding claim 25, this claim recites a computer system for performing a corresponding method claim 9, discussed above, same rationale of rejection is applicable.

7.   Claims 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Huat** in view of Applicant Admitted Prior Art (**AAPA**).

Regarding claim 10, **Huat** teaches the method of claim 1.

Huat does not explicitly teach reflowing the primary content comprises making changes to the document Object Model tree and reflowing the document according to the changes.

AAPA teaches reflowing the primary content comprises making changes to the document Object Model tree and reflowing the document according to the changes. *(i.e., the browser reflows the document according to the change made to the DOM tree as the reflowed document is rendered to the display, page 4 lines 6-12).*

It would have been obvious to one of ordinary skill in the art at the time of the invention modify the teachings of **Huat** to make changes to the document Object Model tree and reflowing the document according to the changes as in **APA**. One would be motivated to do so to allow programs and scripts to dynamically access and update the content, structure and style of the document.

8.   Claims 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Huat** in view of **Ballard**, US 6,182,050 B1.

Regarding claim 11,**Huat** teaches the method of claim 1 wherein identifying secondary content to be displayed in conjunction with the primary content (page 4 paragraph [0039]).

Huat does not explicitly teach identifying secondary content having a time based designation for causing at least one of i) an alternating of the display of the secondary content with other designated secondary content in a same white space, and ii) a displaying of the identified secondary content in the white space for only the time period specified.

Ballard teaches system and method wherein matching between advertisement and target consumer is achieved (see abstract). Ballard teaches identifying secondary content having a time based designation for causing at least one of i) an alternating of the display of the secondary content with other designated secondary content in a same white space, and ii) a displaying of the identified secondary content in the white space for only the time period specified (col. 13 lines 7-13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of **Huat** to display the second content in the white space for only the time period specified as in **Ballard**. One would be motivated to do so to allow advertiser to be able to reach target consumers within a system which protects

consumer privacy (**Ballard,** col. 1 lines 58-60)

Claim 17, this claim does not recite or define any new limitation above claim 11, same rationale of rejection is applicable.

(10) Response to Argument

In the argument, appellants argued in substances

(A)   Appellants assert that at least the element of responsive to determining the white space is not available, reflowing the primary content to form suitable white space in the display area and embedding the secondary content in the suitable white space is not obvious under Huat.

As to point (A), Examiner respectfully submits that the element of responsive to determining the white space is not available, reflowing the primary content to form suitable white space in the display area and embedding the secondary content in the suitable white space is obvious under Huat.

Since Appellant's specification does not expressly define feature "reflowing the primary content to form suitable white space in the display area", Examiner has given a broadest reasonable interpretation of the feature "reflowing the primary content to form suitable white space in the display area" as "rearranging the webpage to create available clear space within the display area".   In this case, Huat teaches it is determined that clear space is not available, a web page within the display area is scrolled to create the availability of clear space (page 4 paragraph [0043]), and the

intermediate message (i.e., secondary content) is displayed/embedded in the available

clear space (page 4 paragraph [0042]). It would have been obvious to one of ordinary

skill in the art at the time of the invention was made to readily recognize that when web

page is scrolled to create the availability of clear space, the content of the web page

must be automatically arranged in order to create the availability of clear space.

In addition, it is noted that the features upon which appellants rely (i.e., "any "wait

for changes" which wait for <u>the browser or viewer program to adjust flow</u> of currently

displayed content within the display area" or "<u>the browser or viewer program adjusting

the layout</u> of the current content to form additional space within the flow of the displayed

content") are not recited in the rejected claim(s). Although the claims are interpreted in

light of the specification, limitations from the specification are not read into the claims.

See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(B)   Prior art (i.e., Porter) does not teach or suggest, nor does the combination

of Huat and Porter teach or suggest each and every element of claims 5, 15, and 21.

As to point (B), Huat teaches advertising message (i.e., the secondary content) is

displayed in the unused/white area/space (page 5 paragraphs [0050]-[0052]). Huat does

not teach advertising message is persistently displayed regardless of user action. Porter

teaches advertisement is persistently rendered in a designated display area,

independent of changes in display area. It would have been obvious to one ordinary skill

in the art the time of the invention was made to implement the unused area of Huat as

the designated display area for persistently displaying the advertisement message as

taught by Porter in order to avoid losing visibility to the advertisement. Thus the

combination of teachings of Huat and Porter does teach each and every element of

claims 5, 15, and 21.

(C)   There is no suggestion or motivation explicitly or implicitly in Huat or in the

knowledge generally available to one of ordinary skill in the art to modify Huat, Porter

and Shema to teach each and every element of claims 6 and 23.

As to point (C), In response to Appellants' argument that there is no suggestion

to combine the references, the examiner recognizes that obviousness can only be

established by combining or modifying the teachings of the prior art to produce the

claimed invention where there is some teaching, suggestion, or motivation to do so

found either in the references themselves or in the knowledge generally available to one

of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case,

Huat teaches a viewer program (page 3 paragraph [0034]). Porter teaches a viewer

program for persistently displaying graphic/advertisement (page 4 paragraphs [0035]-

[0036]). Shema teaches a viewer program for retrieving a designation from a database

accessible to the viewer program (page 7 paragraph [0051[). It would have been

obvious to one of ordinary skill in the art at the time of the invention was made to

incorporate the process of retrieving a designation from a data accessible to the viewer

program as taught by Shema into the viewer program(s) of Huat and/or Porter for the

reason expressly taught by Shema (i.e., "efficiently searching graphics and the

database information, page 7 paragraph [0053]). Thus there is suggestion or motivation

to one of ordinary skill in the art to modify Huat, Porter and Shema to teach each and

every element of claims 6 and 23.

(D)   There is no suggest or motivation explicitly or implicitly in Huat or in the

knowledge generally available to one of ordinary skill in the art to modify Huat by AAPA

to teach each and every element of claim 10.

As to point (D), In response to appellants' argument that there is no suggestion to

combine the references, the examiner recognizes that obviousness can only be

established by combining or modifying the teachings of the prior art to produce the

claimed invention where there is some teaching, suggestion, or motivation to do so

found either in the references themselves or in the knowledge generally available to one

of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case,

Huat teaches a web browser downloads and displays a web page (page 3 paragraphs

[0029]-[0032]). APPA also teaches a web browser reflows the document according to

the changes made to the DOM tree as the reflowed document is rendered to the display

(page 4 lines 9-12). Therefore, it would have been obvious to one of ordinary skill in the

art at the time of the invention was made to incorporate the process of reflowing the

document according to the changes made to the DOM tree as the reflowed document is

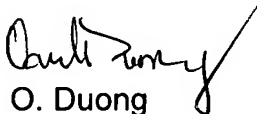rendered to the display as taught by AAPA into the web browser of Huat for the reason

expressly taught by AAPA (i.e., "dynamically access and update the content, structure,

and styles of documents", page 2 lines 24-25).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

O. Duong

August 29, 2007

Conferees:

Lynne H Browne
Appeal Practice Specialist, TQAS
Technology Center 2100

SALEH NAJJAR
SUPERVISORY PATENT EXAMINER